

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

ORIGINAL

In the matter of)
)
Interconnection and Resale Obligations)
Pertaining to Commercial)
Mobile Radio Services)

CC Docket No. 94-54

To: The Commission

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REPLY COMMENTS OF E.F. JOHNSON COMPANY

E.F. Johnson Company ("E.F. Johnson" or the "Company"), by its attorneys, pursuant to Section 1.415 of the Rules and Regulations of the Federal Communications Commission ("FCC" or "Commission") hereby submits its Reply Comments in response to the initial Comments of other parties who addressed the Second Notice of Proposed Rule Making ("Second Notice") adopted in the above referenced proceeding¹ in which the Commission (1) proposes rules relating to the resale obligations of Commercial Mobile Radio Service ("CMRS") providers; and (2) considers whether to require direct interconnection arrangements between CMRS providers.

I. INTRODUCTION

E.F. Johnson submitted comments in this proceeding on June 14, 1995. It pointed out that the Commission should neither extend resale obligations to all CMRS providers, nor should it make resale obligations a condition of licensing for CMRS providers. The Company suggested that to impose those obligations would harm the ability of small, facilities-based Specialized

¹ In the Matter of Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services, Second Notice of Proposed Rule Making, CC Docket No. 94-54, FCC 95-149 (released April 20, 1995).

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Mobile Radio (“SMR”) providers to compete effectively. Resale opportunities may be attractive for some small SMR licensees. However, the decision to resell should be voluntary, and should not be mandated by the Commission.

The Company also pointed out that the Commission has already created, and continues to create multiple opportunities to enable consumers to satisfy their mobile communications requirements. In light of these opportunities, there is no evidence that market conditions will not produce significant consumer choice and effective competition by creating both multiple facilities-based and resale providers. In addition, the Company stated that the Commission can require resale if or when a particular service requires additional competition.

Many other parties submitted comments in this proceeding; many of the comments supported the positions taken by the Company. Some, however, supported the Commission’s proposal to extend the resale obligation to all CMRS. Accordingly, the Company is pleased to have the opportunity to respond to the initial comments of other parties, and to reexamine its own initial Comments in support of those efforts to reach an industry consensus.

II. REPLY COMMENTS

A. Resale Requirements are not Needed in a Competitive Marketplace.

In its initial comments, the Company pointed out that there is no evidence that market conditions will not produce significant consumer choice by creating multiple providers, whether those providers are facilities-based or resellers. The Telecommunication Resellers Association (“TRA”) argues that it is too early to predict the competitiveness of all CMRS markets. However, the environment in which the resale obligation arose is completely different from the

present and expected CMRS marketplace. Accordingly, the continued imposition of resale obligations in light of changed conditions is unnecessary.

The Commission, in the face of a duopoly marketplace with little competition, initially imposed resale requirements for two reasons: (1) to eradicate the effect of a bottleneck provider in the marketplace; and (2) to minimize the unfair advantages associated with one provider having a “head start” over another. As several commenting parties recognize,² neither of these conditions exist today in the CMRS marketplace. More importantly, with the authorization of Personal Communications Services (“PCS”), there will even more competition in the CMRS industry. Thus, rather than emulate a policy adopted for a highly concentrated industry, the Commission should, as one commenter suggested “look to the natural development of the paging business as [a] more appropriate model for its CMRS resale policies.”³ The Commission should permit the marketplace and CMRS licensees themselves to decide on the necessity of resale agreements.

B. The SMR Industry is Operationally and Technically Ill-Suited for Mandatory Resale.

Certain segments of the CMRS industry, such as SMR services, are ill-suited for mandatory resale for sound operational and technical reasons.⁴ However, proponents of mandatory resale fail to take those operational and technical considerations into account. Typical

² See, Comments of American Mobile Telecommunications Association, Inc. (“AMTA”), CC Docket No. 94-54, at 16 (filed June 14, 1995); Comments of Nextel Communications, Inc. (“Nextel”), CC Docket No. 94-54, at 9 (filed June 14, 1995); and Comments of Personal Communications Industry Association (“PCIA”), CC Docket 94-54, at 7 (filed June 14, 1995).

³ See, Comments of AMTA at pp. 9.

⁴ As the Company has noted in the past, there is no reason to subject wide area and local SMR licensees in the same fashion. Resale of SMR service is another example of the logic of this approach. Wide area SMR systems, designed to compete with cellular and PCS facilities, may be appropriate for the imposition of resale requirements. However, as noted below, the imposition of resale requirements on local SMR operators may have significant detrimental effects.

of the mandatory resale proponents is AT&T Corp. (“AT&T”). AT&T supports the Commission’s proposal to impose resale obligations upon all CMRS providers. It argues that the Congressional purpose of amending § 332(c) of the Communications Act was to “establish a Federal regulatory framework to govern the offering of all commercial mobile services.”⁵ However, in reaching its conclusion, AT&T failed to recognize that the unique situation of SMR services warrants the dissimilar regulation that Congress contemplated for certain seemingly comparable services.⁶

The SMR industry is not uniformly technically and operationally suited for mandatory resale. The reselling of SMR services, unlike cellular, can have a dramatic impact on the overall grade-of-service for all users on an SMR system. Different SMR trunking protocols and cellular system architectures have different I.D. (identity) structures. These I.D. structures play a critical role in customer and, therefore, system management. The I.D. structure of cellular systems and some SMR systems may permit resale of SMR service without compromising system capacity and performance. However, as noted below, the I.D. structure of the Company’s protocol requires careful assignment of I.D. codes by the SMR licensee in order to ensure that the licensee’s system is effectively utilized. Accordingly, it cannot accommodate resale and assure the same level of efficiency.

In a cellular system, each radio is uniquely identified by its assigned phone number. The availability of those phone-numbers is infinite. In contrast, as recognized by several other commenters⁷, the Company’s LTR® protocol format has a finite number of unit I.D. codes. The

⁵ See, Conference Report at 490.

⁶ See, Conference Report at 491.

⁷ See, Comments of AMTA at pp. 11, and Comments of PCIA at pp. 18.

LTR® protocol only allows up to 250 I.D.s per repeater (each channel employs one repeater). Yet, different customers require different numbers and configurations of I.D. codes, which, because of their relative scarcity, must be carefully managed by the SMR licensee. Some customers require only one I.D. code. This simplest configuration could represent a small fleet requiring dispatch calling only, with one I.D. provided for all radios belonging to the customer. A single I.D. code may also be assigned to a telephone interconnect customer with a single radio. A larger customer's service requirement may necessitate multiple I.D. codes, each programmed in specific radios in varying sets or groupings to "control" the communications between vehicles. (An example might be one "fleet wide" I.D. and several "sub-fleet" I.D.s to represent sales, delivery, and service personnel. Normal communications between sales, delivery, and service groups would be restricted, unless the fleet wide I.D. was employed). Moreover, many radios share the same group identity making it essential that I.D.s are managed carefully in order to ensure security and privacy. Accordingly, the assignment of I.D. codes is a critical element of station management, which cannot be abdicated to a reseller.

The management of I.D. codes is even more critical in the Company's system because of the LTR® system's use of home channel repeaters. Each radio is assigned a home channel repeater which acts to control the radio's access to the repeater system. In the Company's architecture, each repeater can support, as noted above, 250 I.D. codes. However, with multiple repeaters in a trunked system, more than one unit or series of units on the same system can have the same I.D. code. It is the assignment of a home channel repeater to those otherwise identically designated units or series or units that differentiates them. The assignment of a home channel repeater in an I.D. code also acts to control traffic management. For example, customers that

would be heavy users of a trunked system at the same time during the day would be assigned different home channel repeater codes, in order to spread the traffic over the trunked system. Mandatory resale obligations would negate an SMR licensee's ability to control the assignment of home channel repeater I.D. codes and would result in the licensee ceding control over the capacity and effectiveness of its system. This result directly conflicts with an SMR licensee's ability to effectively manage its customer base, and operate an efficient system.

Because SMR licensees offer both dispatch and interconnect services-which place dramatically different demands on system performance-system management is more important to SMR licensees than it is to other CMRS providers. For an SMR to maintain an acceptable grade-of-service on demand with as few "busies" as possible for all customers, an SMR operator must balance the amount of telephone interconnect traffic with the dispatch cellular airtime on a system. The type of service being utilized has an impact on other customers. For example, if the infrastructure for a single site SMR is loaded with telephone interconnect customers only, rather than a mix of interconnect and dispatch, customers might experience longer waiting times and more busies. Thus, as the American Mobile Telecommunications Association, Inc. ("AMTA") stated, "the typical SMR system displays a delicately maintained balance of dispatch and interconnection units sharing a relatively small number of frequencies."⁸ Because the balance is delicate, the re-selling of air-time on a typical SMR system is not as simple as reselling cellular air-time.

Accordingly, while a cellular I.D. represents "access to airtime", in a trunked SMR system, the assignment of an I.D. represents a critical system management technique. In an SMR

⁸ See, Comments of AMTA at 12.

system, the structure of the I.D.s and how they are programmed into subscriber radios controls the nature of the communications that an SMR system provides for its customers. By allowing resellers of SMR system, the Commission will deprive the SMR operator of its ability to control these elements of station management, thereby jeopardizing system performance, and ultimately the operators success.

III. CONCLUSION

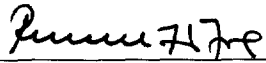
The CMRS marketplace is already sufficiently competitive. As acknowledged by those who support mandatory resale, “market forces are ... generally superior to regulation in promoting the efficient provision of diverse and affordable telecommunications products and services.”⁹ Moreover, I.D.s are essential in accessing service, maintaining privacy and security between customer groups, and in tailoring the specific communication needs of a dispatch customer. These I.D.s can be finite, and if not managed efficiently, will have an adverse impact on an SMR licensee’s profitability and the service provided to its customers. Thus, the Commission should allow the marketplace and the CMRS licensees themselves, rather than mandatory resale requirements, to decide on the necessity of resale agreements.

⁹ See, Comments of Telecommunications Resellers Association (“TRA”), CC Docket 94-54, at 5 (filed June 14, 1995).

WHEREFORE, THE PREMISES CONSIDERED, E.F. Johnson Company hereby submits the foregoing Reply Comments and urges the Commission to proceed in a manner consistent with the views expressed herein.

Respectfully submitted,

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